

UNITED STATES DISTRICT COURT
for the
District of South Carolina

In the Matter of the Seizure of)
(Briefly describe the property to be seized))
Wells Fargo account #2854440944)

Case No. 2:20-cr-356

**APPLICATION FOR A WARRANT
TO SEIZE PROPERTY SUBJECT TO FORFEITURE**

I, a federal law enforcement officer or attorney for the government, request a seizure warrant and state under penalty of perjury that I have reason to believe that the following property in the _____ District of _____ South Carolina is subject to forfeiture to the United States of America under _____ 18 U.S.C. § 981, 982 (describe the property):
Up to \$93,000.00 in Wells Fargo account number 2854440944.

The application is based on these facts:
see attached affidavit

☒ Continued on the attached sheet.


Applicant's signature

Edward M. Klimas, SA FBI
Printed name and title

Sworn to before me and signed in my presence.

Date: May 6, 2020


Judge's signature

City and state: Charleston, SC

United States Magistrate Judge Bristow Marchant
Printed name and title

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

AFFIDAVIT

PERSONALLY APPEARED before me Special Agent Edward M Klimas, who, being
first duly sworn, deposes and states as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), and as such I am an "investigative or law enforcement officer" of the United States within the meaning of Section 2510 (7) of Title 18, United States Code and am empowered by law to conduct investigations and to make arrests for offenses enumerated in Section 2516 of Title 18, United States Code.
2. I have been employed as a Special Agent (SA) of the FBI since February 2001. I have been assigned investigative responsibility in the areas of cyber and computer crimes in the Columbia Division, Charleston Resident Agency, of the FBI. Prior to my appointment as a Special Agent, I was employed by the United States Marshals Service as a Deputy U.S. Marshal for approximately 4 years and was responsible for locating federal fugitives. This affidavit is intended to show only that there is sufficient evidence for the requested warrant and does not set forth all of my knowledge about this matter.
3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient evidence for the requested warrant and does not set forth all of my knowledge about this matter.
4. On December 20th and December 30th 2019, the Real Estate Attorney firm of Gilbert and Barnhill P.A of Mount Pleasant, South Carolina (SC) were victims. of a business email compromise (BEC). This BEC involved the compromise of an email account belonging to a Gilbert and Barnhill employee resulting in the rerouting of two real estate money wire transfers totaling \$924,110.64.
5. A BEC scheme is a common tactic used by cyber criminals to fraudulently obtain funds. The victim's email account is hacked or compromised such that a criminal third party is able to send fraudulent and unauthorized emails from the victim's account. In this case, the fraudulent emails contained wire instructions to the bank making it appear as though the rerouting of the wire transfer was coming from the legitimate law firm's account.
6. The BEC involved two real estate closings in which Mount Pleasant attorney Elizabeth Barnhill was acting on behalf of her clients William B. Henry and Debora J. Henry in one closing and Eric S. Parker in the second closing.
7. The first rerouted wire transfer occurred on December 20, 2019. This wire was originally intended for Wells Fargo Bank but fraudulently rerouted to Bank of the West (BOTW)

account number 056913148. This wire was in the amount of \$300,254.06 for the real estate transaction involving William B. Henry and Debora J. Henry.

8. The second rerouted wire transfer occurred on December 30, 2019. This wire was originally intended for CENLAR but was also fraudulently rerouted to BOTW account number 056913148. This wire was in the amount of \$623,856.58 for a real estate transaction involving Eric S. Parker.
9. Mrs. Barnhill discovered that the money that was supposed to be wired to the individual banks (Wells Fargo in the Henry closing and CENLAR in the Parker closing), had been rerouted to an unknown bank. After realizing the loss, Mrs. Barnhill contacted the sending bank and was told that her assistant had emailed the bank asking that money to be wired to a different bank.
10. Mrs. Barnhill has confirmed that this email was fraudulent and not sent by her assistant. An examination of the law firm's computer system revealed that the assistant's email had been compromised. Thus, an individual not associated with Mrs. Barnhill was able to send the fraudulent wire instructions to the sending bank making it appear as though the change order was coming from a legitimate email sent by Mrs. Barnhill's assistant.
11. As noted above, the money in each instance was wired to the BOTW resolving into account number 056913148. According to officials at the BOTW, this account belonged to an individual named Charles Wayne Lock, d/b/a "Payoff Funding and Processing".
12. Furthermore, BOTW officials confirmed that Lock's account of 056913148 had received these two wire transfers from Gilbert and Barnhill, P.A. The first transfer was for \$300,254.06, payee Shellpoint Mortgage Servicing, sender Gilbert and Barnhill, P.A., Synovus bank account number 1011126172 for the benefit of William B. Henry and Debora J. Henry.
13. The second transfer was for \$623,856.58, payee Payoff Funding Processing, sender Gilbert and Barnhill, P.A., Synovus bank account number 1011126172 for the benefit of Eric S. Parker. These two wire transfers total \$924,110.64.
14. According to BOTW, between December 23, 2019 and January 13, 2020 Charles Lock removed \$1,067,000.00 from BOTW account 056913148 in the form of 17 cashier's checks. These checks listed the payees as various individuals and companies.

U.S. Bank

15. Two of these cashier's checks were identified as BOTW cashier's check numbers 1003242737 made out to "Used Laptop Center" in the amount of \$99,000.00 and 1003240994 made out to "Abolaji Oloja" in the amount of \$43,000.00

16. BOTW indicated that check number 1003242737 was negotiated into US Bank account number 157520112929 and check number 1003240994 was negotiated into account number 199378738108 at US Bank.
17. US Bank indicates that some funds from cashier's check numbers 1003242737 and 1003240994 were still present in account numbers 157520112929 and 199378738108 respectively.
18. Based on this information I believe probable cause exists that US Bank, Account numbers 157520112929 and 199378738108, contain monies, funds or other assets derived wholly or in part from wire fraud violations of 18 U.S.C. § 1343.

J.P. Morgan Chase

19. One of the 17 cashier's checks was identified as BOTW cashier's check number 1003240996 made out to "Adewale Ogunsanya" in the amount of \$40,000.00.
20. BOTW indicated that this check was negotiated into account number 695716782 at JP Morgan Chase.
21. Conversation with JP Morgan Chase indicates that some funds from cashier's check number 1003240996 are still present in account number 695716782.
22. Based on this information I believe probable cause exists that JP Morgan Chase, account number 695716782, contains monies, funds or other assets derived wholly or in part from Wire Fraud, 18 U.S.C. § 1343.

Wells Fargo

23. Two of the 17 cashier's checks were identified as BOTW cashier's check numbers 1003225704 made out to "Mark Jones" for \$45,000.00 and 1003233950 also made out to "Mark Jones" in the amount of \$48,000.00
24. BOTW indicated that both of these checks were negotiated into account number 2854440944 at Wells Fargo Bank.
25. Conversation with Wells Fargo Bank indicates that some funds from cashier's check numbers 1003233950 and 1003225704 were still present in account number 2854440944.
26. Based on this information I believe probable cause exists that Wells Fargo, Account number 2854440944, contain monies, funds or other assets derived wholly or in part from Wire Fraud, 18 U.S.C. § 1343.
27. Therefore, I submit that there is probable cause to believe that the funds in the TARGET ACCOUNTS listed below are subject to criminal and civil forfeiture pursuant to 18 U.S.C. §§ 981(a)(1)(D) and 982(a)(2), and that a seizure warrant for the funds may be issued

pursuant to 21 U.S.C. § 853(f) (governing issuance of criminal seizure warrants) and 18 U.S.C. § 981(b) (governing issuance of civil seizure warrants).

28. Based on my training and experience, I know that restraining orders served on banks sometimes fail to preserve the property for forfeiture because the bank representative receiving the restraining order fails to put the necessary safeguards in place to freeze the money in time to prevent the account holder from accessing the funds electronically, or fails to notify the proper personnel as to the existence of the order, or the bank exercises its own right of setoff to satisfy an outstanding debt owed to the bank by the account holder. In contrast, where electronic funds are concerned, a seizure warrant guarantees that the funds will be in the Government's custody once the warrant is served. Therefore, a restraining order under 21 U.S.C. § 853(e) would not be sufficient to assure the availability of the funds for forfeiture, and a seizure warrant is necessary, up to an amount received in the bank accounts of \$142,000.00.

Property to Be Seized

a. **US Bank Accounts 157520112929 and 199378738108**

I request the court issue a Seizure Warrant for funds in an amount up to \$142,000.00 contained in the aforementioned account.

b. **JP Morgan Chase Bank Account 695716782**

I request the court issue a Seizure Warrant for funds in an amount up to \$40,000.00 contained in the aforementioned account.

c. **Wells Fargo Bank Account 2854440944**

I request the court issue a Seizure Warrant for funds in an amount up to \$93,000.00 contained in the aforementioned account.

Assistant United States Attorney Sean Kittrell has reviewed this Affidavit.


Edward M. Klimas
Special Agent, FBI

SWORN to before me this
6 day of June, 2020.


BRISTOW MARCHANT
UNITED STATES MAGISTRATE JUDGE